

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANIEL J. VAN MILL and SHEILA L. VAN
MILL, husband and wife,

Plaintiffs,

v.

WRIGHT MEDICAL TECHNOLOGY, INC., a
foreign corporation,

Defendant.

CASE NO. C03-2989RSM

ORDER ON DEFENDANT'S MOTION
TO COMPEL

This matter is before the Court on defendant's motion to compel production of documents, supplemental answers to interrogatories, and a physical examination by plaintiff. Defendant's motion is DENIED for the same reasons set forth in the Order denying plaintiff's motion to compel (Dkt. # 67). The Court finds that counsel's certificate of compliance fails to comply with the certification requirements of F.R.Civ. Proc. 37 (a)(2)(A) and Local Rule CR 37(a)(2)(A). Although counsel filed a supplemental certificate of compliance after the denial of plaintiff's motion to compel (Dkt. # 69), it fails to cure the defects. Local Rule CR 37(a)(2) requires a face-to-face meeting or a telephonic conference to constitute a good faith effort to meet and confer regarding discovery. Counsel has attached copies of letters and facsimile transmissions, dating back to April of 2004, amply documenting that a discovery dispute has

1 been ongoing for the past year. In many of these, the letter itself is designated as a “meet and confer,”
2 which does not meet the requirements of the local rule. The Court declines to comb through the
3 submitted documents to find the simple statement required: namely that on the date named, counsel
4 spoke directly to one another regarding the specific dispute which is addressed in the motion to compel,
5 and were unable to reach agreement. Prescient Partners, L.P., v. Fieldcrest Cannon, Inc., 1998 WL
6 67672 (S.D.N.Y. 1998); *citing* Tri-Star Pictures, Inc., v. Unger, 171 F.R.D. 94, 99 (S.D.N.Y. 1997);
7 Shuffle Master, Inc., v. Progressive Games, Inc., 170 F.R.D. 166, 170 (D. Nev. 1996) (stating that the
8 certification must “accurately and specifically convey to the court who, where, how, and when the
9 respective parties attempted to personally resolve the discovery dispute.”)

10 Defendant’s motion to compel (Dkt. # 43) is therefore DENIED, without prejudice to renewal as
11 a motion under the joint submission procedure set forth in Local Rule CR 37(a)(2)(B), **after** the parties
12 have conferred, face-to-face or by telephonic conference, in a good faith attempt to resolve each dispute
13 without Court intervention, as required.

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15 DATED this 3 day of May, 2005.

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19 RICARDO S. MARTINEZ
20 UNITED STATES DISTRICT JUDGE
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